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SUMMARY RECORD OF THE 436th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 January 1998, at 10 a.m.

Chairperson: Miss MASON

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Initial report of Ireland

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GE.98-15054 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Ireland (CRC/C/11/Add.12; CRC/C/Q/IRE/1; HRI/CORE/1/Add.15)

1. At the invitation of the Chairperson, Ms. O'Donnell and the other members of the delegation of Ireland took places at the Committee table.

2. Ms. O'DONNELL (Ireland) said that the new Government had committed itself to being more sensitive to children and child-care issues, and had set out a number of key priorities, including early and comprehensive juvenile justice legislation; implementation of the recommendations of the Kilkenny Incest Enquiry Report, the Kelly Fitzgerald Report and the Madonna House Report; the mandatory reporting of child abuse; a review of all investigative, therapeutic and prevention services to protect children; the consideration of a constitutional amendment to underpin the individual rights of children; and the establishment of a voluntary contact register which would allow adult adoptees to contact their birth parents. Her Government viewed the standards and principles set out in the Convention as a useful benchmark against which it could develop and evaluate policy in the areas of child care and child rights.

3. Over the previous decade, the problem of child welfare had been a central concern of successive Irish Governments. Ireland had experienced an explosion of public awareness with regard to child abuse, and particularly child sexual abuse, which had led to a series of parliamentary reports and inquiries. The State was, consequently, well aware of the traumatic and life-altering effects of physical, emotional, and sexual child abuse.

4. The revelations of the various inquiries had led to a clamour for reform. Professionals from the Statutory Child Protection System had generated a number of key reports whose recommendations reflected a consensus among a range of organizations and professions involved with children. The Government had already implemented many of those recommendations, and had begun a major structural and legal reform in the area of child protection. Non-governmental organizations (NGOs) in the sector had been very forceful advocates.

5. As early as 1964, the Guardianship of Infants Act had established that, in settling cases involving children, the welfare of the child must be the first and paramount consideration of the court. In recent years, various family laws had undergone a number of important reforms, with respect to maintenance, legitimacy, guardianship, custody, and child abduction. The Child Care Act, 1991, Ireland's primary child-protection legislation, had been drafted at the same time as the Convention, and shared its basic philosophy. The Domestic Violence Act, 1996, strengthened provisions for the protection of children against violence. The Family Law Act, 1995, and the Family Law (Divorce) Act, 1996, empowered the court to make financial, property and pension orders on behalf of children. The Children Act, 1997, introduced new

measures to safeguard children's interests, addressed the matter of a child's testimony in civil cases, and established, also in civil cases, systems for ad litem guardianship and separate legal representation.

6. Various important matters had been raised in the list of issues submitted by the Committee (CRC/C/Q/IRE/1). The question as to how the Convention was reflected in the constitutional and legal framework had recently been considered by the Constitutional Review Group, which had made a number of recommendations concerning articles of the Constitution dealing with the family. As an initial response, the Government had requested the All-Party Committee on the Constitution to consider an amendment to protect the individual rights of children.

7. Issues affecting children were dealt with by a number of Government departments and coordination was thus a key element in the successful implementation of child policy. Her Government had advanced proposals which would result in the appointment of a minister of state who would be responsible for coordinating child-care policy, and would be supported by a cross-departmental team of officials. Furthermore, the Child Care Advisory Committees had made substantial progress in the coordination of agencies with responsibility for children. There were also plans to establish regional child protection committees - at the Health-Board level - to enhance inter-agency and inter-professional approaches to child protection.

8. Significantly, the Child Care Act, 1991, assigned to Health Boards the legal responsibility for promoting the welfare of children who were not receiving adequate care and protection, and required them to regard the welfare of the child as the first and paramount consideration. The full implementation of that Act called for substantial funding: in 1997, 43.5 million additional pounds per annum had been allocated and 900 additional staff had been recruited, an investment in child-care services unprecedented in the history of the State.

9. The Child Care Act had given rise to a number of significant developments. The Department of Health had proposed the establishment of a social services inspectorate which would concentrate on child care and protection. Homelessness among children was a growing problem and the Health Boards envisaged various measures: early childhood intervention to prevent homelessness; the increased provision of community services to families and young people; and the provision of accommodations and support services to homeless children and young people. In addition, a series of initiatives, costing £Ir 2 million, had been announced to combat homelessness in the Dublin area, where the problem was especially acute.

10. Measures were also envisaged to improve the statistical data on children in care; to develop a campaign to publicize the Convention; to establish an association of children in care to ensure that the views of such children were taken fully into account in the planning and provision of services; to establish a paedophile register designed to protect children from recidivism by such persons; to make foster homes available to all children in need of them and to provide additional supports to foster parents; and to set up two

special care units in Dublin which would provide urgent special care and educational facilities for children with emotional and behavioural difficulties.

11. Much still remained to be done. Her Government had learned that it must respond to the needs of an evolving society. Major areas of current concern included homeless children and the related problems of child prostitution and drug and alcohol abuse; the health services were making efforts to address those matters. A key development had been the recent publication of the Education Bill, a central objective of which was to provide a statutory framework to ensure high-quality education for all persons, including those with special educational needs. New school attendance legislation, which would introduce measures to combat truancy and early drop-out, was in preparation.

12. The Children Act, 1997, which provided in effect a charter for children's rights in cases of conflict, established a comprehensive range of provisions designed to protect the interests of children in guardianship, custody, and access proceedings. It empowered the courts to hear the evidence of children under the age of 14 in civil cases, without the requirement of an oath or affirmation, and to hear testimony by children in proceedings concerning their future welfare by television link. It also provided for the admissibility of out-of-court statements by children, which had previously been excluded under the law governing hearsay, and enabled unmarried fathers to acquire guardianship rights without obtaining a court order. In the view of the Government, the law should, as far as possible, permit unmarried parents to share responsibility for their children.

13. Ireland had been an early signatory of the European Convention on the Exercise of Children's Rights, and would soon enact the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, events which indicated the country's desire to apply international standards regarding the welfare of children.

14. The Children's Bill, which would soon be opened for parliamentary debate, set out a framework for the creation and development of a totally new juvenile justice system, established further protections against child abuse, and introduced provisions to help non-offending children who were out of control. The Child Trafficking and Pornography Bill, 1997, which had recently been published, would protect children against abuse by child pornographers and paedophiles.

15. Her Government had taken a number of initiatives in the area of family policy and women's rights which directly affected children's rights and the quality of children's lives, including measures to refocus the tax and welfare system for the benefit of the family, with emphasis on the impact of marital breakdown and divorce (which had recently been legalized), to extend parental leave, to establish a national mediation service, and to fund refuge facilities for women and children fleeing domestic violence.

16. While it was striving to support the family, the Government recognized that the rights of the child must be first and paramount. The former undue emphasis on the rights of parents had hindered the protection of children's

rights, and had helped to shroud child abuse in secrecy. It was determined to assist children-at-risk and to tackle the root causes of disadvantage among children; the Minister of State for Health and Children had announced, the previous week, the establishment of the National Children's Trust, which would support research into the causes of disadvantage among children, assist voluntary child-care organizations, develop a comprehensive database on children's issues, and raise public awareness of the plight of neglected children.

17. In Ireland, some 27 per cent of the population was under 15 years of age; for their sake and for the sake of the country, the Government must not fail them.

18. The CHAIRPERSON invited the members of the Committee to put questions relating to general measures of implementation.

19. Mrs. MOKHUANE said that further information on coordination among the ministries, NGOs and human rights units would be useful, especially on measures to improve such coordination. She would also like to know to what extent anti-poverty measures had been successful, and what percentage of the national budget was allocated for the purpose.

20. Mr. FULCI said that, while he commended the Irish Government on the breadth of the report and the commitment it had shown toward enhancing the welfare of children, he was concerned that Ireland was not a party to a number of international instruments which had an impact on the protection of children's rights such as the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children. He asked whether the Government was taking steps to ratify those instruments, and if so, what the status of those ratification procedures was.

21. Furthermore, the Constitution provided that international instruments became effective only by a decision of the Oireachtas (National Parliament). If such agreements were not incorporated into the domestic law, they could not be invoked before the courts. Since no such parliamentary decision had been taken with regard to the Convention, it appeared that, if a conflict arose between its terms and those of a domestic legal text, the domestic legislation prevailed. It would be useful to know whether Ireland had taken any decisions concerning the relationship between international law and domestic law in the matter of children, why it had omitted to incorporate the Convention into the domestic legislation, and what was the legal impact of such an omission on the protection of children's rights.

22. Mrs. PALME said that she commended the Irish Government on the promulgation of the Child Care Act, and in particular on its recognition of the child as a separate entity with rights distinct from those of the family.

23. A difficulty that had not yet been resolved was that of coordinating policy and action relating to child, youth and family affairs. Even if steps were being taken to improve interdepartmental coordination, there was a need for a more independent body such as an ombudsman to promote and protect children's rights.

24. With regard to the National Anti-Poverty Strategy, she noted that, despite the rapid pace of economic growth, one third of all children were dependent on support systems. The persistence of such unequal circumstances must generate a sense of discrimination among children and she wondered how the authorities were dealing with the problem.

25. Activities aimed at publicizing the Convention did not seem to involve the children themselves. What further plans existed in that area?

26. Mrs. OUEDRAOGO endorsed the view that an independent institution such as an ombudsman would be better able to coordinate action for the protection of children at all levels and commended the idea of establishing a national mediation service as part of the new Government's family policy. She would like information as to how that institution would operate.

27. The drafting of legislation on adoption and protection of children seemed to have been strongly influenced by a desire to avoid encroaching on the rights of parents, and that had led to the existence and recognition of certain unspecified children's rights. The Constitutional Review Group had recommended, inter alia, that all such rights, as well as the rights and duties of parents, should be expressly mentioned in the Constitution. It was to be hoped that the authorities would act on that recommendation, particularly in the light of the need to harmonize Irish legislation with the Convention.

28. She commended action to familiarize civil servants, educators, health personnel and others with the Convention and suggested that such action would be even more effective if it was accompanied by recommendations on ways of integrating the provisions and principles of the Convention into their daily work. She also welcomed the national public information campaign to be mounted in 1998, with partial government funding, by the Children's Rights Alliance, an umbrella body of NGOs.

29. Mrs. SARDENBERG, having welcomed the fact that the report had been prepared in accordance with the Committee's guidelines, asked how the Department of Foreign Affairs had organized the drafting process, especially in terms of coordination with other official bodies and NGOs.

30. She had the impression that action on behalf of children was somewhat fragmented and recommended a more global approach to the ethos of the Convention. In general, the child tended to be viewed within a family context rather than as an individual. A national strategy for the promotion of children's rights might assist not only in adopting a more global approach but also in remedying existing institutional overlapping. She requested more information on regional and local coordination between, for example, the Health Boards and the Boards of Education.

31. Were sufficient funds available from the Government to fund the planned children's rights awareness campaign? Had the Convention been translated into Irish?

32. She understood that an All-Party Committee on the Constitution was considering a constitutional amendment to underpin children's rights. What were the procedures for having such an amendment approved, was it likely to be adopted and what changes would it entail?

33. The discussion of poverty tended to focus on homelessness, which was certainly a crucial issue, but poverty was a more global phenomenon related to exclusion from society and development. What was the Government doing to combat child poverty?

34. What steps had been taken to generate awareness of the Convention among members of professional groups such as judges, lawyers and law-enforcement officials?

35. Mrs. KARP noted that, in 1997, the Minister who had introduced the Children's Bill said he had been advised by the Attorney-General that potential constitutional difficulties existed in relation to the provision referring explicitly to the rights of the child, which had therefore been reworded. That raised a crucial issue. The innovative idea of the Convention was that of moving from protection and caring to assertion of children's rights. That innovative approach had implications not only in abstract or ideological terms but also for the practical implementation of the Convention. She wondered whether the new approach had been internalized by the bodies in Ireland that were responsible for formulating policies, designing services and evaluating strategies in line with the holistic spirit of the Convention. Was there a proper awareness of the fact that the Convention was concerned with rights rather than with attitudes to welfare? Such an awareness also had implications for the management of public campaigns and debates.

36. In the same context, she stressed that training for judges should cover not only the legal aspects of the Convention but also the impact of social and cultural attitudes on the enjoyment or violation of children's rights.

37. In general, she felt that the proposed amendment to the Constitution should be promoted solely on the grounds that the idea of rights needed to be supported by all available ways and means.

38. The report and introductory statement provided statistics for children below the age of 15 years and for persons in the 15 to 24 age group. There were no statistics for children as defined in article 1 of the Convention, namely human beings below the age of 18 years. Services and policies should, however, stem from an overall strategy for children below the age of 18 and children thus defined should also be viewed as partners in the formulation of such strategies, policies and services.

39. Were NGOs in Ireland partners in the development of policies and strategies?

40. The CHAIRPERSON said she was impressed by the plethora of bills, programmes and policies that were either in the pipeline or already being implemented. She wondered, however, whether there was any machinery for systematic evaluation of their value and appropriateness.

41. In connection with the innovative aspects of the Convention, she wondered whether there had been any real public discussion of its provisions that involved the children themselves. Which articles of the Convention had given rise to the most heated discussion?

42. A large number of bills had been inherited from the previous Government and she would like to know what the new Government's intentions were with regard to the enactment of those having implications for children's rights.

43. Ms. O'DONNELL (Ireland) said she noted that many members of the Committee were concerned about the adequacy of mechanisms to coordinate Government policy and monitor implementation of the Convention. In view of the priority given to the protection of the most vulnerable children, the greatest advances in coordination had involved the Departments of Health, Education and Science, and Justice, Equality and Law Reform. In 1994, one Minister of State had been appointed to all three Departments, with responsibility for child protection, youth homelessness, school truancy and children in trouble with the law. In June 1997, a Minister of State with responsibility for children had been appointed to the Department of Health and Children and he would shortly acquire responsibilities similar to those of his predecessor. He would be supported by a cross-departmental team of civil servants. Steps to improve coordination at the regional and local levels had also borne fruit. The new Government shared the Committee's concern that effective coordinating arrangements should be put in place.

44. With regard to monitoring, the new office of Minister of State for Human Rights, to which she herself had been appointed, would ensure that human rights issues had a higher profile. The first appearance of Ireland before the Committee had imposed a salutary discipline in relation to the Government's implementation of the Convention. She would ensure that existing reporting mechanisms were reviewed so as to ensure that statutory agencies such as Health Boards included specific reference to their compliance with the Convention.

45. She was aware that NGOs attached great importance to the appointment of a children's ombudsman. Her Government agreed that such an office would have many advantages but had decided that the appointment of a social services inspectorate to monitor the quality of services to the most vulnerable children should have priority. However, the idea of an ombudsman had not been ruled out and would be re-examined during the next phase of implementation of the Convention.

46. With regard to the incorporation of the Convention in the Constitution, a Constitutional Review Group had recently submitted its report and an All-Party Committee of the Oireachtas was currently examining its recommendations and the possibility of amending the Constitution to underpin children's rights. Any proposal to amend the Constitution would have to be ratified by the people in a referendum.

47. Although the Convention had not been directly incorporated into the Constitution, the courts had due regard for the country's obligations under all international treaties that had been ratified. Moreover, all legislative measures, particularly the Child Care Act, reflected the ethos and substance of the Convention, so that it was gradually becoming part and parcel of legislation.

48. The Government had agreed to resume discussion shortly of the Children's Bill, 1996, which had been introduced with a view to replacing the Children Act, 1908, by a comprehensive modern statute dealing with all aspects of juvenile justice. The Bill would do away completely with imprisonment for children and ensure that no child fell outside the system. The Health Boards would be responsible for unruly non-offending children, the Department of Education and Science would be responsible for the detention of offending children under 16 years of age and the Department of Justice, Equality and Law Reform would be responsible for the detention of 16 and 17-year-old offending children.

49. The definition of a child for the purposes of mental-health treatment would be reviewed in connection with proposed new mental-health legislation to be introduced in mid-1998.

50. The Government was committed to reviewing all investigative, preventive and therapeutic services to protect children, including the court system, the Office of the Director of Public Prosecutions and community child-care services. From her own knowledge of the justice system in Ireland, she was aware that a great deal of reform was necessary to ensure, for example, that the prosecution service dealt adequately with child-abuse cases.

51. Ireland was committed to ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination as soon as domestic legislation had been brought into harmony with those treaties. A number of bills to that effect would be debated during the next parliamentary session and, once they were enacted, ratification would swiftly follow.

52. Comprehensive statistical data was being collected on children, but there was still room for improvement. Ireland was the first country to compile a comprehensive database on the service needs of people with mental handicaps, an invaluable tool for planning service needs. In 1997, 4,362 children under 18 years had been identified as having a moderate to profound mental handicap, with over 90 per cent receiving a residential, day or respite service. Over 80 per cent of them lived in a home setting, but 4 per cent were not in receipt of any service.

53. Enumerating the data-collection activities in the various governmental departments, she said that the Department of Education and Science compiled disaggregated data on education matters, to include pupil-teacher ratios and participation rates. It also maintained records on children in Ireland's five young-offender facilities. The Department of the Environment conducted an annual census of Traveller families, compiling data on Traveller children who had, of course, the same rights as children in settled communities. (Although

many Traveller children lived fulfilled lives in their own cultural environment, there was an occasional need for State intervention.) An annual census was made of children in care.

54. Data on homeless children was also being collated; that involved attributing a personal identity number to each child. The Department of Health and Children was responsible for compiling a database on child abuse. With a view to improving statistical accuracy, a consultancy study would be initiated to harmonize the various Health Boards' interpretations of what actually constituted abuse.

55. The Government would be establishing an independent social services inspectorate in early 1998, with a view to monitoring and evaluating the quality of service delivery as experienced by users and carers. Consisting of a multidisciplinary team of social-service professionals, the inspectorate would promote the development of national quality standards to be used as benchmarks. It would also initiate research work, contribute to training programmes, implement recommendations of review reports and provide policy-development information. Although the inspectorate would initially concentrate on the child-care sector, it would eventually expand its activities to embrace the disabled and the elderly.

56. For the preparation of the country report, the Department of Foreign Affairs had coordinated inputs from the relevant Government departments. NGOs had been invited to a day-long consultation and their comments were contained in a separate chapter.

57. The Government had agreed to finance in part a national publicity campaign to disseminate the Convention, which would be conducted by the Children's Alliance. A national children's trust would also be established in order to improve awareness of children at risk. In her own capacity as Minister of State for Human Rights, she would be seeking to further parliamentary debate on the importance of the Convention. The issue of children's rights was extremely topical in Ireland and the Oireachtas was committed to addressing the issue. To that end, the Department of Foreign Affairs would shortly be organizing a forum to enable NGOs to exchange views on the dissemination of the Convention.

58. The Department of Education and Science had circulated the country report to all schools and school inspectors, and the Convention also formed part of in-service training in the fields of social, environmental and political education, and had been forwarded to all regional Health Boards.

59. The amount of resources available to the judiciary, primarily for training purposes, would be increased to £Ir 50,000 in 1998 compared with £Ir 13,000 the previous year.

60. Over the past decade, there had been major developments in a wide range of national legislation and services affecting children, including those in special circumstances. NGOs had been widely consulted throughout the process. Although governmental responses tended to be issue-specific and an overall framework could be said to be lacking, it must be stressed that priority

issues affecting children were being addressed in Ireland, particularly in the light of the recent shocking revelations as to the scale of child abuse.

61. The building blocks for a national strategy for children were in place, and the structured manner in which the Government had been requested to prepare its country report had facilitated the process. A millennium plan for children was already in preparation in the Department of Health and Children and the Government hoped to be able to report on further progress on children's rights in its second periodic report.

62. NGOs in Ireland made a positive contribution to democratic public debate on children's issues in a wide range of areas. A Green Paper on Voluntary Activity had been published to further debate on the relationship between the State and the voluntary sector and the State frequently funded voluntary agencies to enable them to provide services and policy guidance. NGOs were actively involved in policy formation relating to social services, child care, disability, education and juvenile justice.

63. A Department of Foreign Affairs/NGO Standing Committee on Human Rights had been established in June 1996 to examine the issue of human rights education and the dissemination of the various international human rights instruments. The Government allocated one million pounds per annum of funding to the National Committee for Development Education, which provided funding to other NGOs for the preparation of school texts to raise teacher and pupil awareness of human rights throughout the school system.

64. Each year, the Government expended some very significant resources in support of children. In 1993-1997, an additional annual grant of £Ir 43.5 million had been allocated to the development of child-care services, and a further 8 million would be provided in 1998 together with 5 million for capital investment. Education service expenditure was also on the increase, particularly to reduce class sizes and support pupils with special needs. In the primary sector, expenditure had increased from £Ir 655 million in 1992-93 to £Ir 747 million in 1995-96, despite a fall in primary pupil numbers from 521,000 to 479,000. In 1996, nearly half a million families and over one million children were recipients of Child Benefit allowances. Child Benefit had seen an increase over the past three years of 52 per cent for a three-child family and 54 per cent for a five-child family.

65. In early 1997, the Government and its social partners had decided to implement a National Anti-Poverty Strategy (NAPS) designed to place the needs of the poor and socially excluded at the top of the national agenda. The Strategy aimed at reducing the numbers of the "consistently poor" from 9-15 per cent to less than 5-10 per cent over a 10-year period. Political and administrative support structures had been established, including monitoring mechanisms involving the participation of civil society and cross-departmental teams focusing on the key causes of poverty and social exclusion.

66. Ms. BARRINGTON (Ireland) said that there were plans to have the Convention translated into Irish in the coming year.

67. In reply to Mrs. Ouedraogo, she said that there would be a distinction between the role of an inspectorate for child-care services and the

coordinating role of the Minister of State with responsibility for children. The "mediator" was not so much a post as a development of an existing service for families undergoing marital breakdown, which aimed at prioritizing the interests of children.

68. Recognition by the courts of rights not specified in the Constitution enhanced the protection of children. There would be a conflict only if a right were to be enumerated that was in breach of the Constitution. The courts took care to respect international commitments.

69. In reply to Mrs. Karp, she said that the Government was fully committed to enshrining the rights of children. As in the Convention itself, it was always necessary, however, to balance the rights of children against those of families, a subject for ongoing debate. The issue of standardizing the ages used in compiling statistics on children would be addressed.

70. Replying to the Chairperson, she said that NGOs had been active in promoting public and media interest in the Convention, and that the principles which had received the most attention were the "best interests of the child" (article 3), the "views of the child" (article 12) and the monitoring of the implementation of the Convention.

71. The CHAIRPERSON said that, although it was evident that the Irish Government was keen to protect children's welfare, the Committee had been given no evidence of any active participation by children in the formulation of policies affecting them.

72. Mr. KOLOSOV agreed and added that a patronizing approach towards children still appeared to prevail. Children did not feel that they were full members of society.

73. The statistical data provided did not correspond to the Convention's definition of the child as a person under the age of 18, and thus did not enable the Committee to carry out a meaningful evaluation of the real situation of children in Ireland. In contravention of article 4, the State Party had thus not undertaken all appropriate legislative and administrative measures to implement the Convention. Although the Government no doubt had comprehensive census figures at its disposal, it had provided in the report figures relating only to children under 15 and to persons aged 15 to 24.

74. Even if the courts gave due consideration to international instruments, it was clear that, in the case of a legal conflict, Irish domestic law would prevail over international law, since the provisions of the Covenant did not appear to be properly reflected in national legislation.

75. The tremendous potential of NGOs did not seem to be fully exploited by the Government. NGOs did not appear to be full partners in monitoring activities and in devising overall policies concerning children.

76. Ireland had a huge potential and might one day be cited as a model country in the implementation of children's rights. However, although expenditure on children's rights was on the increase, trends and results were

not always positive, particularly with regard to special protection measures. Had any analytical studies been carried out to determine the reason for such a state of affairs?

77. Mrs. KARP asked what the difficulties were that prevented express reference in Irish legislation to the rights of the child. She wondered whether the Minister of State for Health and Children had any authority over the Department of Education or whether his role was merely one of coordination. Did he have the power to make policy decisions affecting other departments? Finally, had cross-border cooperation on children, especially Traveller children, been taken on board in the current peace talks?

78. Mrs. PALME said it was not clear to her whether Ireland had ratified the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. As to the preference expressed for setting up an inspectorate rather than a post of children's ombudsman, she urged the Irish authorities to give further thought to the latter possibility, which might result in a more independent, open and community-oriented forum for discussion and coordination. Lastly, on the definition of the child, she sought clarification as to the age of criminal responsibility in Ireland.

79. Mr. FULCI said he had the impression that, in spite of a wealth of legislation and regulations, Ireland lacked both a national strategy for children in the framework of the Convention and also a national, regional and local mechanism for ensuring its implementation. Coordination was urgently needed - a message which the Irish delegation should transmit to its authorities. He also wished to know whether any surveys had been conducted, or were planned, concerning the level of public awareness of the Convention, especially among government officials, legislators, NGOs, the media and the public at large, as well as among children themselves.

80. Mrs. SARDENBERG said she welcomed the candid recognition by the delegation of the lack of a national strategy for implementation of the Convention. While she appreciated that it took time to put a legislative infrastructure in place, it must be borne in mind that children grew up very quickly. She also noted that the focus in Ireland was very much on child protection, perhaps at the expense of children's rights as individuals.

81. The Oireachtas and the Government had a crucial role to play, not only in enacting legislation, but also in stimulating public debate in a somewhat conservative society, so as to bring attitudes towards children into line with the new perspective introduced by the Convention. More specifically, she wished to know what individual was ultimately responsible for policy concerning children, and whether there were any plans to implement the Committee's observation to the effect that NGOs should be involved more closely with the work of the Government. In that regard, she asked for further details of day-to-day relations between the Government and NGOs, and of how the latter's input was incorporated into Government policy.

82. Noting that, paradoxically, Ireland had Europe's fastest-growing economy and Europe's second-highest level of child poverty, she asked whether the 1998

budget included measures to eradicate child poverty, and whether any specific national strategy existed to intervene in early childhood so as to prevent children at risk from becoming homeless.

83. Ms. O'DONNELL (Ireland) said that many of the questions asked concerned situations arising from the fact that the Constitution contained no specific provisions underpinning the rights of the child; and that there was no capacity to absorb aspects of the Convention into domestic law without first enacting domestic legislation. Many of the defects which had been noted - and which her delegation accepted - could be rectified once an amendment had been introduced into the Constitution championing and vindicating the rights of the child as an individual.

84. The 1937 Constitution contained a section underpinning the inalienable and imprescriptible rights of the family: words that had not been helpful in championing the individual rights of the child when interpreted by the courts over the years. Consequently, the Constitutional Review Group had suggested the deletion of various provisions of the Constitution relating to the family and had recommended that a revised article 41 should include a recognition by the State of the family as the primary and fundamental unit of society; a guarantee to all individuals of respect for their family life, whether or not based on marriage; and, notwithstanding the foregoing, an express provision setting forth certain rights of the child, such as the rights to be registered and receive a name immediately after birth, to know his or her parents, to be cared for by his or her parents as far as practicable, and to be reared with due regard for his or her welfare. There should also be an express requirement that all action concerning children, whether taken by legislative, judicial or administrative authorities, should make the best interests of the child the paramount consideration. In that way, the guiding principles of the Convention would be specifically reflected in the Constitution, which was the primary source of all law in the country.

85. The Constitutional Review Group also recommended an amended form of article 42 (5) providing expressly for State intervention either where parents had failed in their duty or where the child's interests required such intervention; restating the State's duty in such cases; and stating the circumstances in which the State might interfere with or restrict the exercise of family rights guaranteed by the Constitution. Such an article would be loosely modelled on the provisions of article 8 (2) of the European Convention on Human Rights.

86. As for cross-border cooperation, excellent cooperation existed between the Irish and the Northern Ireland authorities on child care, and there was considerable contact between officials. Experts from Northern Ireland regularly addressed conferences on child-care issues in the Republic. As part of the peace process, special funding had been provided for the promotion of cross-border cooperation and contacts, and for the expansion of services for pre-school children living near the border. With regard to juvenile justice, there were extensive contacts and exchanges of views between the Department of Justice, Equality and Law Reform and the Northern Ireland Office, either on a one-to-one basis or at a more structured institutional level under the Anglo-Irish Agreement. All-Ireland bodies thus already existed in relation to the coordination of child-care services.

87. The principle of establishing an office of ombudsman was still on the Government's agenda. However, the Minister with special responsibility for children had felt that, in a situation where Ireland's services and administrative procedures had been shown to be inadequate, protection of children at risk must be the immediate priority for policy makers. Nonetheless, she would take back to that Minister the message that a more positive, rights-based approach needed to be championed.

88. On public-awareness campaigns, she said that copies of the Convention had been distributed to schools, the Health Boards and other statutory agencies working in the field. More needed to be done, and funding had thus been approved for a two-year public-awareness campaign. As Minister of State for Human Rights, she had a budget for advocacy of human rights issues, and was proposing to include the Convention on the Rights of the Child in that advocacy in the context of the celebration of the fiftieth anniversary of the European Convention on Human Rights.

89. Some detailed questions had been asked concerning the poverty strategy. Child Benefit had been the major plank in tackling child poverty. A non-taxable, incremental cash payment made regardless of income, it was paid directly to mothers. A further benefit, in the form of Family Income Supplement, was paid to unemployed poor families. In her view, however, the best tool for eradicating long-term poverty was access to secure employment. Over the past three years, the Government had succeeded in reducing the rate of unemployment from 13 per cent to 10 per cent. That approach would continue to be the primary focus in reducing poverty. She would obtain full details of family support and anti-poverty measures in the 1998 budget from the competent department and supply them to the Committee.

90. Ms. BARRINGTON (Ireland) said that major changes were under way with regard to involving children in policy decisions and their implementation. In particular, the Education Bill published in December 1997 provided for student councils, and required school managers to facilitate the involvement of students in the operation of schools and school principals to involve them in setting up each school's objectives and monitoring the achievement of those objectives.

91. Responding to questions about NGO involvement, she said that, at the national level, many policies on children were elaborated by working parties, in which NGOs were fully represented and to which they made an important contribution. Thus, for example, the Irish Foster Care Association met the Department of Health and Children biannually to discuss issues of mutual concern not resolved at the regional level. In recognition of the role it played, the Minister of State had allocated that organization £Ir 70,000 to promote its work. The authorities would be happy to meet NGOs in order to discuss the latter's view of their role in the implementation of the Convention.

92. Ireland had signed but not ratified the Hague Convention, the reason being that major amendment of its adoption laws would be required before ratification was possible. Implementation of that Convention would require, first of all, designation of a central authority with overall responsibility for the recognition of foreign adoptions; secondly, accreditation of bodies competent to undertake arrangements for intercountry adoptions; and thirdly,

provision for automatic recognition of adoptions under the Convention. Much work thus needed to be done, but the Convention would be ratified once those tasks had been completed.

93. Ms. O'DONNELL (Ireland), replying to the question concerning a national strategy for early intervention to prevent children from becoming homeless, said that the "Partnership 2000" agreement contained a commitment to establish a national framework for child care. An expert working group, fully representative of all relevant NGOs, was due to report on the question in mid-1998. Under the Child Care Act, the Health Boards provided funding to NGOs for early intervention with children at risk. The Minister of Education was also organizing a forum on early education, to be held in 1998.

94. As a Minister who had no direct responsibility for the provision of services and the development of policy in the areas under consideration, she could assure the Committee that she would relay its concerns to the Minister responsible. As Minister of State for Development Assistance and Human Rights, she had the responsibility of reporting to the international community on compliance with the international conventions, but it was for other ministers and departments to secure that compliance.

95. The CHAIRPERSON asked for clarification of the distinction between the powers of ministers of State and of cabinet ministers.

96. Ms. O'DONNELL (Ireland) said that a minister of state was a junior minister without full cabinet status. Overall democratic responsibility and accountability for the provision of services within a department lay with the cabinet minister concerned.

97. Under the previous Government, the Minister of State with responsibility for children had had designated functions in relation to the other departments having an influence on child policy, namely, the Departments of Education and of Justice. Under the incoming Government, a Minister with responsibility for children had again been appointed, but those particular functions had not so far been designated to the Minister concerned. A Cabinet decision was required to change that functional allocation of responsibility. It had been accepted, in principle, that one minister must have functional responsibilities in each of the relevant departments.

98. Mrs. SARDENBERG said it appeared that the Minister with responsibility for children thus had less power than his counterpart had had under the previous Government.

99. Ms. O'DONNELL (Ireland) said that the Cabinet had not yet assigned to that Minister designated functions in other departments, but that it would shortly do so.

100. Mrs. MOKHUANE asked whether steps had been taken to protect children in employment from exploitation by setting a national minimum wage; what the Government's position was on the formulation and implementation of a national policy for provision of pre-school - as opposed to primary school - education; and whether there was a policy to review annually the cases of children in residential care.

The meeting rose at 1 p.m.

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COMMITTEE ON THE RIGHTS OF THE CHILD

Seventeenth session

SUMMARY RECORD OF THE 437th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 12 January 1998, at 3 p.m.

Chairperson: Miss MASON

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Ireland (continued)

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GE.98-15064 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Ireland (CRC/C/11/Add.12; HRI/CORE/Add.15; CRC/C/Q/IRE/1 (list of issues to be taken up in connection with the consideration of the initial report of Ireland); written replies by the Government of Ireland concerning the list of issues (document without symbol distributed at the meting)) (continued)

1. At the invitation of the Chairperson, the Irish delegation took places at the Committee table.

2. The CHAIRPERSON invited the Irish delegation to reply to the questions put to it at the previous meeting.

3. Ms. O'DONNELL (Ireland) said that the Protection of Young Persons (Employment) Act contained various standards concerning hours worked, safety at work and general employment conditions for minors, and that the recent European Union Directive concerning the protection of young persons was currently being incorporated into domestic law. There was at present no minimum wage requirement. However, in accordance with the commitments it had assumed in its Programme for Government, the new Government had set up a commission to examine the issue, and a number of sectors, including the hotels sector, had already introduced a minimum hourly wage for working children.

4. Mr. KILROY said that a working group fully representative of all relevant non-governmental organizations (NGOs) had been set up to examine national policy on protection of children, and that in application of the Child Care Act the Health Boards provided funding to a range of NGOs dealing with children at risk. The Department of Education provided pre-school and social protection services for children in areas of socio-economic disadvantage, and also for children from the Travelling Community. In April 1998 the Minister of Education would also be organizing a major forum on pre-school education, in which all the institutions and organizations concerned would participate. On that occasion the essential question of links between pre-school provision and primary school provision would be among the topics addressed. As for Traveller children, their rate of participation in primary schooling was particularly high, and the Government would continue its efforts to facilitate their access to second-level education.

5. Ms. O'DONNELL (Ireland) added that the Health Boards were obliged to review the situation of children placed in residential care every six months during the first two years of the placement and yearly thereafter, and that on that occasion they must take account of the views expressed by the child. Any person having a bona fide interest in the care of the child could also request such a review.

6. Mr. FULCI asked whether any surveys had been conducted to ascertain whether members of certain professions such as members of parliament and government officials, and also journalists, members of NGOs and the general public were aware of the rights set forth in the Convention.

7. Ms. O'DONNELL (Ireland) said that the Government had decided to launch a two-year public awareness campaign on the Convention, over the years 1998 to 2000.

8. Mrs. KARP asked whether a minor under 18 years old who married was then regarded as an adult and no longer benefited from the protection measures accorded to minors. With regard to the age of criminal responsibility, it seemed to her insufficient to raise it from 7 to 10 years. To have dealings with the law could have dramatic consequences for the future of the child, and in her view it would be better to consider alternative measures. Furthermore, the minimum legal age for consulting a doctor without the consent of the parents had been set at 16 years, and she wondered whether children under that age who had sexual or drugs-related problems were able to consult a doctor or a psychologist without necessarily mentioning the matter to their parents.

9. Noting that there were plans to raise from 16 to 18 the age used to define a child in the 1945 Mental Treatment Act (CRC/C/11/Add.12, para. 67), she wished to know why that measure was envisaged, and whether children whose parents decided to place them in a psychiatric hospital had the possibility of contesting their decision. She also wished to know whether judges, psychologists, teachers and members of other professions who came into contact with children received training enabling them to serve the best interests of the child and to assist him in freely expressing his opinion on any question concerning him. In the areas of custody and visiting rights, for example, the child should be able to express his opinion not only through third parties, but also directly and personally.

10. She also requested further information on the measures taken to improve the situation of children in the Travelling Community and to combat discrimination against them. Lastly, she asked whether it was planned to prohibit reasonable and moderate chastisement by parents in the correction of their children, which in her view was incompatible with the principles of the Convention.

11. Mrs. OUEDRAOGO asked how the Government monitored the situation of children employed in the informal sector, and whether the Children Bill, 1997, which for the first time authorized an unmarried father to exercise parental authority jointly with the child's mother, had entered into force. She also requested further details of the legislation on abortion, which seemed to be rather confused, as well as on the results of the study on the causes of adolescent suicide and of the programme to reduce the suicide rate among adolescents.

12. Mrs. MOKHUANE asked whether the Department of Education was involved in the implementation of the adolescent suicide prevention programme and whether there was any coordination in that area between the various departments dealing with child issues. Noting that the Status of Children Act, 1987, had eliminated the discrimination made in legislation between legitimate and illegitimate children, she wished to know what the Government was doing to inform the media that the term "illegitimate child" should no longer be used. Lastly, she asked from what point an unborn child was considered to be a person under Irish legislation.

13. Mr. KOLOSOV asked whether all persons resident in Ireland, including foreigners and stateless persons, enjoyed equality of rights in the same way as Irish citizens, and to what extent the procedure for entering the father's name in the births register when he was not married to the child's mother had been eased (paragraph 94 of the report). He also wished to know whether children born out of wedlock and children of asylum seekers were subjected to discrimination. Lastly, he asked why the age of consent to sexual relations had been set at 17 years, whereas the minimum age for marriage was 16 years. Did that mean it was a criminal offence to have sexual relations with an unmarried person under 17 years of age, whether or not that person consented to the act?

14. Ms. O'DONNELL (Ireland) said that the Family Law Act, 1995, fixed the minimum age for marriage at 18. However, persons between 16 and 18 years old could enter into marriage with the consent of their parents. Persons under the age of 16 wishing to marry must obtain the consent of the High Court which, in its decision, took account of the best interests of the child.

15. Mr. MURRAY (Ireland), replying to the question concerning the age of criminal responsibility, said that it was at present fixed at seven. However, there was provision in the Children Bill for it to be raised to 10. It might subsequently be raised to 12, but to raise it by five years at one stroke could lead to insuperable difficulties. Moreover, in Irish law criminal responsibility was a common law notion, meaning that below a certain age a child was not considered capable of committing an offence. Children under seven years of age who committed a reprehensible act were dealt with, where necessary, under the Child Care Act. Those children could also be dealt with by the Health Boards, which applied appropriate measures within the child's family environment. Under another common law rule, special arrangements could also be applied to children who had attained the age of criminal responsibility but were under 14.

16. Ms. O'DONNELL (Ireland), referring to the question of discrimination, said that the principle of equality was enshrined in the Irish Constitution and, in that connection, referred the Committee to the written replies to the list of issues. Two significant pieces of legislation in that field - the Employment Equality Bill and the Equal Status Bill - were to be amended, having been found unconstitutional by the Supreme Court, and would shortly be reintroduced in the Oireachtas. The authorities were aware of the need to ensure equal access for all children to education, health care and social services, and particular efforts were being made with regard to children of refugee families or from the Travelling Community. Until recently asylum seekers had been very few in number, consisting chiefly of single males, whereas they now comprised whole families. Children of asylum seekers could enrol in school even if their families were still awaiting final determination of their status, and language training was offered both to school-going and to adult refugees. The authorities had also put in place a number of measures concerning Traveller children to promote their participation in education and their access to health care. She mentioned that the Travelling Community, which had numbered 23,500 in 1995, had increased by 60 per cent between 1981 and 1995. In 1986, almost 75 per cent of the Travelling Community had been under 25 years old, and of that number more than 50 per cent had been under 15. The average size of families was 5.4 persons. Their situation with

regard to accommodation had improved greatly: in 1996, 4,320 families, or 80 per cent of the Travelling Community, had lived in serviced halting sites. The Government was allowing about five years in which to give all Travellers appropriate accommodation standards, and a Bill establishing local authorities' obligations in that regard was currently being studied. While the majority of Traveller children attended primary school, it was a matter of concern that only 20 per cent of them attended second-level schools. Aid to the Traveller Community thus remained a priority of the Government. Furthermore, the Department of Education was currently reviewing equality of access by children with disabilities or special needs to the social and educational fields.

17. The concept of the best interests of the child was fully reflected in legislation, particularly in two key pieces of legislation, namely, the Child Care Act and the Children Act. That principle also underpinned social welfare policy. The right of children to express an opinion was also reflected in legislation: for example, it was provided for in guardianship proceedings, and student councils were to be created in schools.

18. Ms. BARRINGTON (Ireland) said that the principle of respect for children's privacy was fully applied in the context of medical consultations. With regard to mental health treatment, an area in which the persons concerned were not always able to give their consent, the legislation was being revised so as to incorporate the United Nations Principles for the protection of persons with mental illness and the improvement of mental health care, as well as the relevant principles of the European Convention on Human Rights, so that under the new legislation the age of consent would be raised to 18 years.

19. With regard to possible disparities between actions by the various Health Boards, she said that the Boards were bodies with general responsibility for health services in Ireland, and that the concept of health was very broadly interpreted. The powers of the Health Boards were defined in law, and in order to avoid possible disparities in the provision of services, the Department of Health had established guidelines and maintained close and frequent contact with the heads of each of the Boards.

20. Ms. O'DONNELL (Ireland), replying to questions on corporal punishment, said that the situation varied according as the context was the family, school or residential care. In the case of foster care, corporal punishment was expressly prohibited. In schools, a recent law had abolished the common law rule whereby teachers inflicting corporal punishment were immune from criminal liability, but it made no reference to the liability of parents, for the Government had considered that public opinion was not yet ready for such a decision. Nevertheless, it was proposed to initiate a public debate on the question. In that connection, the Law Reform Commission had recommended that, while it was premature to change the law under which parents had the right to inflict moderate and reasonable chastisement on their children, efforts should be made to change parents' attitudes. Corporal punishment was expressly prohibited in pre-school establishments. As for residential care services, the Health Boards recommended that reasonable and humane sanctions should be applied and that all corporal punishment should be avoided.

21. A child was considered to be a person from the moment of birth. However, the Constitution also contained provisions to protect the rights of the unborn. As recent judicial decisions had shown, that protection could nevertheless be limited in certain cases, for example when the future mother's life was in danger. A working group had been set up to study all the medical, legal and social issues raised by abortion and, following its completion, a green paper was to be published in June 1998.

22. Mr. KILROY (Ireland) said that, generally speaking, children dropped out of school not because of economic factors, but because school had ceased to be relevant to their interests, needs and aspirations. Conscious of that situation, the Irish authorities had begun to prepare less traditional school curricula that were more likely to interest and motivate children experiencing difficulties. A bill on the question was being studied and activities for children excluded from the school system were being organized, some of them in cooperation with NGOs.

23. Ms. BARRINGTON (Ireland), referring to the question of single mothers, said that a plan for women's health had recently been published, in which the position of women living alone was highlighted. In addition, various projects were under way throughout the country, one of which was intended to provide young girls with information on the problems they might encounter in areas such as educational and vocational guidance and early pregnancy. One of the Health Boards was implementing a project in which experienced mothers met and tried to assist young single mothers.

24. As for the registration of births, nothing in domestic law precluded the registration of the father's name when he was not married to the child's mother. Nonetheless, it would not be feasible to make such registration compulsory; nor would it appear to be required under the Convention. On the question of adolescent suicide, the suicide rate in that category of the population was not very high but was, however, increasing dramatically. Two years previously a task force had begun to study the problem with a view to preparing strategies to lower the suicide rate, and its report would soon be published. Children had not yet been consulted on the question, as a matter of prudence, for it was feared that broaching the matter might plant the seed of suicide in some children's minds. Nevertheless, children's views on the question were clearly important. As for the application of the word "illegitimate" to children and the discrimination that might result from its use, the expression "non-marital child" had to all intents and purposes replaced it in normal parlance; given that around 25 per cent of children in Ireland belonged to that category, they were not stigmatized to the extent that they had been in the past.

25. Ms. O'DONNELL (Ireland), clarifying a response on the question of marriage, said that up until 1995 young people between 16 and 18 years of age had been able to get married with the consent of their parents. Since then, any person under 18 years of age wishing to marry must obtain the permission of a court, parental consent no longer being sufficient for children between 16 and 18 years of age.

26. With regard to the application of the Constitution to non-citizens, the rule was that most of the fundamental rights set forth in the Constitution

were applicable to persons resident in Ireland, whether or not they were Irish citizens. However, application of article 40 of the Constitution, concerning equality, was limited to Irish citizens. Nevertheless, the Constitutional Review Group had recommended that the guarantee of equality should be extended to non-citizens. The concept of the best interests of the child was enshrined in many national laws, but the Constitutional Review Group had recommended that the principle should be expressly set forth in the Constitution, and in all newly adopted laws.

27. Ms. BARRINGTON (Ireland) said that copies of the Convention were distributed in schools in Ireland, and that study of the principles set forth therein was included in curricula.

28. The CHAIRPERSON invited members who so wished to revert to the topics considered at the previous meeting and to take up the section of the list of issues entitled "Family environment and alternative care".

29. Mr. KOLOSOV, referring to paragraph 94 of the report, asked to what extent the procedures for having the father's name entered on the births register when he was not married to the mother had been eased. Moreover, he noted that the delegation's oral reply to the question about the age of sexual consent was in contradiction with paragraph 73 of the report, which stated that the Family Law Act of 1995 increased the minimum age of marriage to 18 years and removed any requirement for parental consent. Furthermore, with reference to paragraph 72 of the report according to which, outside of marriage, 17 years was the age of consent for both heterosexual and homosexual intercourse, he asked what sanctions were provided in the event of violations. Lastly, he noted that Ireland had sometimes been the impugned party in cases brought before the European Commission of Human Rights and the European Court of Human Rights. Had any of those cases involved violations of the rights of the child and, if so, had they been taken into account in the preparation of the report?

30. Mrs. MOKHUANE, referring to the policy of non-discrimination applied to the Travelling Community, said that, according to information available to her, the resources allocated to it were inadequate. What could be done to increase the amount of assistance it received, in particular to satisfy the needs of its children? Furthermore, it would appear that such communities in rural areas could more easily take advantage of the various services and facilities available than those in urban areas.

31. Mrs. KARP asked whether anything had been done to enable children in a difficult situation to express their opinions. Did social workers or the persons responsible for the care of such children receive training that enabled them to acquire a better understanding of their needs? Could children express views in certain bodies such as the recently established Regional Education Council?

32. She also asked whether parental consent was required when an adolescent had to consult a doctor because of a drug problem or a desire to use contraception for example. Referring to the question of corporal punishment, she wished to know whether the awareness-raising campaign directed at parents had begun and whether budgetary funds had been allocated for that purpose.

Lastly, on the question of abortion, she asked what happened if the parents of a very young girl opposed abortion whereas the girl herself did not wish to have her child.

33. Mrs. PALME said she would like to know to what extent the subcommittee on unwanted pregnancies that was to be established by the authorities would participate in activities under various health programmes and public projects so that uniform criteria could be applied throughout. Moreover, in the framework of those programmes children must be provided not only with medical care but also psychological support, particularly by taking their views into account.

34. Mrs. SARDENBERG said she was concerned by the idea that the authorities preferred to leave it up to parents to decide what constituted "reasonable and moderate" corporal punishment - a term that would inevitably be defined in an extremely subjective manner - rather than defining it in legislation. She observed in that connection that Ireland was not a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; that was unfortunate.

35. The freedom of expression of children, embodied in article 12 of the Convention, was a novel principle whose application raised problems in a number of countries. It was gratifying that Ireland's education system was being reformed and that the delegation had acknowledged that very often curricula failed to take the views of the child sufficiently into account. To what extent could children participate in the life of the school at the present time? What was the position as regards sex education? To whom could a child complain if he was bullied?

36. Unfortunately the situation of girls, which was of particular importance to the Committee and had been one of the main topics discussed at the Beijing Conference, was not mentioned in the report, although the Government's written replies referred to impressive statistics on the schooling of girls and in particular on the high proportion of girls studying at university. However, was the proportion of career women of the same order? Moreover, in view of the increasing number of unwanted pregnancies being recorded were preventive measures being taken? Lastly, noting that parents were entitled under the Constitution to educate their children at home, she wondered whether that practice was widespread and, if so, why. Moreover, did teachers receive training in human rights, and specifically in the rights of the child?

37. Mr. FULCI said that, according to the Irish press, the number of street children was increasing by at least 400 a year; that trend placed such children at risk by exposing them to prostitution. According to the report, the authorities were aware of the problem and were doing everything possible to solve it. Did the delegation have reliable data on the subject and on the number of homeless children? What measures had been taken or would be taken to reverse the trend? Moreover, the Government recognized that existing legislation relating to children who were victims of domestic violence was inadequate and had stated that additional resources were being made available to improve social support services. Were any figures available on the subject? Had preventive measures been taken or were they envisaged?

38. Mrs. QUEDRAOGO wondered whether, in the case of adoption, the child who bore the name of his adoptive parents had the right to know his real identity and obtain information about his biological parents. Could he assume the name of his biological parents? Moreover, whereas States parties should ensure that no child was subjected to torture or other cruel, inhuman or degrading treatment or punishment (article 37 (a) of the Convention), it had been observed that young persons who were ill-treated while in custody or during questioning lacked adequate guarantees. What was being done to remedy the situation? Lastly, she said she was concerned by the situation of children who, under alternative care, were not treated well. Could those children be removed from their foster family and were there any family support services available?

39. Mrs. KARP wondered how the State party ensured that teachers in private establishments had the necessary qualifications and would appreciate knowing how such establishments were supervised. She also asked what resources were allocated to family support services and whether the number of social workers available was enough to satisfy the demand.

40. She noted that abused children could seek help from the police but observed that, in general, the persons most qualified to deal with complaints of that nature were social workers and not the police. Furthermore, were teachers required to bring cases of children who were victims of domestic violence to the attention of the competent bodies? Lastly, referring to the Government's reply to issue 22, she would appreciate clarification of the statistics on cases of cruelty to or neglect of children reported to the Gardaí between 1992 and 1996. The number of such cases seemed to be very small considering that steps had been taken to make it easier for children to complain to the police and judicial authorities.

41. The CHAIRPERSON said that she, just like other members of the Committee, was concerned by the matter of corporal punishment. She noted that the Children Act of 1908 referred to moderate corporal chastisement whereas, the Children Bill failed to mention it at all. Did that mean that the law authorized what it did not specifically forbid?

42. Mrs. MOKHUANE said she would appreciate clarification of the fact that the authorities required Vietnamese families wishing to benefit from the family reunification programme to provide proof of their ability to support their relatives intending to join them in Ireland. In view of the improvement of the economic situation in Ireland, was the Government taking into account the provisions of article 10 of the Convention on family reunification? She also asked whether article 9 of the Convention was taken fully into account when an abused child was removed from his family.

The meeting was suspended at 5.10 p.m. and resumed at 5.20 p.m.

43. Ms. O'DONNELL (Ireland) said she wished to revert to the statistics, referred to at the previous meeting, on child poverty in Ireland. Those statistics, which had been extracted from a 1994 survey and based on figures for 1993, were rather misleading because, owing to the way they had been calculated, they did not reflect poverty in absolute terms. In any event, a great deal had been done since then to deal with the problem: child benefits

had been increased by over 50 per cent, low-income families had been granted a supplementary allowance - the FIS - (which was being paid to about 12,000 persons at the present time), and vocational training programmes and a back-to-work allowance had been introduced, since child poverty was closely linked to parental unemployment. The objective of the national anti-poverty strategy was to reduce the percentage of the population identified as being consistently poor and to resolve the school drop-out problem among children from disadvantaged families in order to break the poverty cycle. Since 1994, the number of children living in poverty had declined as a result of those measures and also because of the economic recovery recorded in the country.

44. Replying to the question about the bodies to which citizens could complain about the poor quality of health services or the difficulty of obtaining such services, she explained that clinics throughout the country could deal with complaints of that nature and that there was also an ombudsman who could look into complaints about the provision of public services.

45. She explained that the criteria applied to women and adolescents wishing to terminate a pregnancy were the same. Abortion was legal under the Constitution if there were reasonable grounds for believing that the pregnancy constituted a real and substantial risk to the life - as distinct from the health - of the future mother. When a pregnant adolescent under the care of the Health Board wanted an abortion, the decision in the matter was taken by the court on the basis of psychological and psychiatric reports, after consultation with the adolescent and following an evaluation of the danger presented by the pregnancy to the life of the mother. The situation was more complicated if the adolescent was in her parents' care. For that reason, all the various aspects of abortion, namely, ethical, legal and constitutional, were being examined in the context of a broad-ranging consultation initiated by the Government, on completion of which a decision would be taken concerning the possible amendment of the relevant legislation.

46. The idea that persons working with children were under an obligation to report any cases of abuse to the competent authorities was the subject of a lively debate in Ireland. It had been rejected by the previous Government despite the favourable opinion of the Law Reform Commission in respect of the sexual abuse of children. Public opinion in Ireland was favourable to the introduction of the mandatory reporting of abuses and the question was being considered by the new Government which, in its programme of action, had taken a similar view. Existing guidelines on child abuse were not legally binding and had proved ineffective as a means of protecting children against violence of all kinds. The present Government was, moreover, determined to elucidate the discrepancy noted between the large number of cases of child abuse reported to the authorities and the number of criminal prosecutions initiated.

47. Lastly, replying to the question on the family reunification of Vietnamese refugees who had settled in Ireland, she explained that no financial demands were made of refugees wishing to bring their families over, that they simply had to provide proof of three years' residence in the country and that, so far, 378 Vietnamese citizens had settled in Ireland under the reunification programme.

48. Mrs. BARRINGTON (Ireland), replying to a question put by Mr. Kolosov, said that a woman could now register her child under the name of its father and was no longer required to do so under the name of her husband if he was not the father.

49. With regard to the complaints submitted by Irish citizens to the European Court of Human Rights, she explained that national legislation found to be incompatible with the provisions of that Convention had been amended accordingly. Furthermore, on the question of the coordination of various programmes aimed at promoting health in the country - such as the Healthy Cities Initiative - she explained that the Health Promotion Unit of the Department of Health was cooperating closely with the Child Care Policy Unit and that, since Irish society was relatively small, informal coordination was also working quite well.

50. Mrs. SPILLANE (Ireland) said that the law expressly prohibited corporal punishment in child-care institutions and establishments. Referring to Mr. Fulci's request for reliable statistics on homeless children, she said that, according to the Eastern Health Board, 400 homeless children were presented for emergency services each year. However, they were usually the same ones, for whom assistance was requested several times during the same year; statistics on the subject had to be improved. A total of 160 emergency places were available under the Eastern Health Board and child-care facilities would be improved further thanks to the supplementary funds that had recently been made available. Day centres for adolescents had also been provided. She also noted that a major study of domestic violence had been completed the previous year, as a result of which various measures had been drawn up to combat violence against women, which was very often a source of child abuse. Women's Aid - a non-governmental organization which was endeavouring to curb domestic violence in the country - had received supplementary funding the previous year. Refugee care centres had similarly received additional funds in 1997.

51. The Irish authorities were aware of the need to improve and expand family support services so that all children at risk could receive appropriate protection. Additional funds for the purpose had already been earmarked in the 1998 budget and the Health Boards were at present deciding how the amounts in question were to be allocated. The budget of the Child Care Service, under the Child Care Act, amounted to about £100 million, and since 1993 an additional amount of £14 million had been made available.

52. Lastly, she said that the Adoption Act of 1952 restricted the right of adopted children to know the name of their natural parents. The Constitutional Review Group had recommended that adopted children should have a right to know their real identity and have access to their birth records. The Ministry of Health and Children had already accorded priority to that question.

53. The CHAIRPERSON thanked members of the Irish delegation for the detailed replies they had provided and invited them to continue their presentation at the following meeting.

The meeting rose at 6 p.m.

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Seventeenth session

SUMMARY RECORD OF THE 438th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 13 January 1998, at 10 a.m.

Chairperson: Miss MASON

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CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Ireland (continued)

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GE.98-15057 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Ireland (CRC/C/11/Add.12; HRI/CORE/1/Add.15; CRC/C/Q/IRE/1) (continued)

1. At the invitation of the Chairperson, Ms. O'Donnell and the other members of the delegation of Ireland took places at the Committee table.

2. The CHAIRPERSON invited the Irish delegation to reply to the questions asked at the previous meeting.

3. Mr. MURRAY (Ireland) said that it was an offence for a man to have sexual relations with a woman under the age of 17 to whom he was not married. The Government was removing the statutory basis permitting parents to chastise children to a reasonable extent, a measure which would not affect the relevant common-law provision. The latter provision did not, however, give parents the authority to abuse or assault their children.

4. The National Juvenile Liaison Office, which was run by the police, coordinated and monitored all matters pertaining to children in conflict with the law. Of those children under the age of 18 who had committed offences in 1996, about 2,700 had been brought before the courts, about 6,500 had been admitted to the Diversion Programme and no action had been taken against a significant number of others. About 500 children under the age of 10 and 1,000 children aged 10 and 11 had been referred to the Liaison Office. Since intervention by the Health Boards in cases involving young children would require an intensive, family-based approach, it was currently too costly to undertake.

5. Persons sentenced to prison terms for the commission of sexual offences benefited from two treatment approaches: there was, first, a group treatment programme, the purpose of which was to force offenders to confront their behaviour and, secondly, a one-to-one therapeutic programme conducted by professional counsellors from the probation and welfare service and the prison clinical psychology service. Incidentally, imprisoned offenders also benefited from programmes dealing with anger-management and alternatives to violence.

6. Mr. KILROY (Ireland) said that the policy of the Department of Education was to integrate Traveller children into mainstream education at both the first and second levels, and a range of services had been devised to achieve that end. The Department had almost 300 special support resource teachers whose task was to handle the particular needs of Traveller children, a visiting teacher service, consisting of 20 teachers, and a set of Junior Traveller Training Centres to address the needs of children between the ages of 12 and 15. The Task Force on the Travelling Community had taken the view that the visiting teacher service was of key importance because it involved Traveller parents in the education of their children.

7. A number of cases had come before the High Court which related to the placement of children with special needs, and which had arisen primarily from

efforts to expand the traditional parameters of the educational services. The Ministry of Education was conducting a major review of special services. Lack of resources was very often not the problem but, rather, the lack of the necessary flexibility to respond to the special needs of individual children.

8. The new Education Bill provided for the creation of student councils, and established that principals should consult students on the development of school objectives, with due regard for the age and experience of the children concerned. Under the Social, Personal and Health Education Programme, human rights education had been integrated into school curricula. In addition, a major training programme for teachers and school managers, to be held in 1998, would emphasize the principles of the Convention. There were no barriers to the participation of women in education and, in fact, Ireland had a greater proportion of women in the educational profession than most European countries.

9. Problems did, of course, arise in the provision of services to children with special needs, especially where there were few such children in a given area. The designated schools provided special services both to children in the schools themselves and to those in other schools, but that did not mean that support services were not provided to the other schools as well. Remedial services, for example, were currently offered in 90 per cent of all schools, and would eventually be provided in all schools. An important measure was the Home School Community Liaison Service, which involved parents in their children's education and in school matters. Studies had shown that the education of parents was a crucial factor in the educational prospects of their children. Under the Constitution, parents were entitled to educate their children at home, but that practice was rare and subject to inspection by the Ministry of Education.

10. Ms. O'DONNELL (Ireland) said that guidelines for combating bullying had been introduced in all Irish schools. The Stay Safe programme, created for primary schools, taught simple strategies for dealing with potentially dangerous situations, which children acted out in the classroom. Parent-education programmes were provided in 84 per cent of Irish schools; 99 per cent of the schools took part in in-service training programmes; 250,000 parents had received relevant educational booklets, and 80 per cent of the schools were participating in the Stay Safe programme.

11. The Government had decided to incorporate sexual education into school curricula so as to reduce the incidence of teenage pregnancy and to promote a healthy integration of sexuality into personal life, a measure which had sparked off considerable debate. Such programmes focused on self-esteem, interpersonal skills, sexuality and relationships, as well as on broader health questions.

12. Ms. SPILLANE (Ireland) said that, although there were 13 children receiving special treatment in Northern Ireland, the facilities in question were just across the border and quite close to their homes; they were receiving a high level of care. The Government assisted parents to visit their children in residential care, and the staffs of the relevant facilities kept in close touch. Some of the children concerned tended to run away from

residential programmes; the special care units soon to open in Dublin would thus provide a high level of security. Efforts were being made to develop services to provide care in Ireland for all children with special needs.

13. Mrs. SARDENBERG said she was pleased to learn that human rights and children's rights were being incorporated into school curricula. In 1999, the Convention would be 10 years old and the Government might consider making that anniversary the occasion for disseminating it. The Education Bill, which provided for the creation of student councils, was an important means of implementing article 12; the authorities should consider other means of providing for the active participation of children. All of those measures were, in her view, long overdue.

14. Several questions came to mind. First of all, she failed to comprehend the reason for the system of informal suspensions of children from school, which deprived children of their right to education without any formal justification. Secondly, she wished to know whether the constitutional amendment assigning a domestic role to women had been revised to provide for shared parental responsibility and, thirdly, she asked what steps had been taken to combat begging by Traveller children.

15. Mr. FULCI asked what measures had been envisaged or enacted to combat the high rate of alcohol abuse by Irish children, to reduce the high infant mortality rate among Travellers, and to end the social ostracism and segregation of Travellers.

16. Mrs. OUEDRAOGO said studies had shown that it cost less to keep a child at home than to institutionalize him. Home care thus provided a double advantage: it was preferable for the affective development of the child, and more cost-effective.

17. She was concerned to find that the Irish educational system did not provide for pre-school education, a vital phase in a child's development. Furthermore, although the recommended age for enrolment in primary school was 6, paragraph 465 of the report indicated that 54 per cent of children aged four and 99 per cent of children aged five attended primary school. Early school enrolment had been shown to cause intellectual fatigue and she wondered whether there was any relation between that practice and the high drop-out and absenteeism rates. The Irish Government should consider providing pre-school education for children between the ages of two and five, and abiding by the recommended age for primary-school enrolment.

18. It would be useful to know what was meant, in paragraph 466, by smaller schools and why it had been decided, in such schools, to assign several classes to one teacher. What phenomenon had inspired the circular entitled "Time in School", which set out the number of teaching hours a pupil should receive per day? Since there were no official year-end examinations, it would be useful to know on what basis some pupils were held back.

19. Furthermore, when a pupil was subject to administrative review, she would like to know whether he or she had access to the findings of that review and the right to express views thereon before the class council, and whether representatives of his or her class participated in the review. What was the

role of the resident coordinator, how was he appointed, and why were there resident coordinators only in primary schools and in certain disadvantaged areas?

20. Since State allocations for schools were supplemented by local resources, thus causing some schools to be better equipped than others, the Government should describe what steps it was taking to redress those inequities. It would be useful to know what steps the Government had taken with regard to those school teachers who had refused to teach sex education, whether they were permitted to keep their posts, and, if so, how the sex-education curricula was taught.

21. She was also concerned that the highly competitive University-entry conditions in Ireland placed undue psychological stress on secondary pupils. How was the problem of youth unemployment being addressed, since it probably contributed to children's disillusionment with the educational system?

22. Finally, she would like to know whether the social services inspectorate would take proper account of variations in health-care access from region to region. If, as one study had found, 11 per cent of families with children in the city of Dublin did not have a family doctor, she would like to know what the situation was in sparsely populated rural areas.

23. Mrs. PALME requested disaggregated data on drop-out rates at primary and secondary level for Traveller and settled children. According to 1995 figures, one in five school leavers had no certificate at all and one in three children in working-class areas left school without the Junior Certificate. Was there any system in place to provide extra support for such children for the duration of their "school careers"? Throughout the world, the gap between rich and poor was widening and it was necessary to focus on educational provision for the poorer sectors of society, lest whole generations be "lost".

24. Ireland reportedly had problems accommodating the service needs of children with disabilities, in spite of its excellent database on disability. The need to adapt buildings and roads to the needs of disabled children did not, for instance, appear to be covered by legislation. The Equal Status Bill would have had a positive impact on the situation of disabled children but, since it had been judged unconstitutional, she would like to know what further measures were envisaged by the Government.

25. In view of the importance of breastfeeding to the child's health and relationship with its mother, she wondered why there was such resistance to the practice in Ireland, with only 32 per cent of mothers breastfeeding from the outset, and only 12 per cent continuing after three months. In her own country, Sweden, the "baby-friendly" hospital initiative was universally accepted at delivery clinics, thanks to a hard-fought campaign led by the United Nations Children's Fund (UNICEF).

26. Since the number of refugee children in Ireland was so low, she failed to see why they posed such a problem. What steps were being taken to ensure that such children received a proper education and to combat racist attitudes?

27. Mr. KOLOSOV said that, in view of the Government's recognition that certain children in Ireland required special protection, he would like to know which remedies had proved most effective.

28. The Committee would welcome detailed data concerning court cases involving children. If the Department of Social Security and the courts were not always effective, he wondered why the Government had postponed establishing of an Ombudsman to monitor implementation of the Covenant. Such an institution had, after all, proved most effective in the Nordic countries. Would the social services inspectorate, which the Government intended to establish instead, prove to be a truly independent body, or yet another administrative structure?

29. On the subject of a child's right to contacts with its parents, what was being done to ensure that the biological father's name was always entered on a child's birth certificate and to ensure respect for a child's right to maintain contact with its father even after divorce proceedings? Children had the right to enjoy the guardianship of both parents, including regular and ongoing contact with both mother and father and also their extended families. Despite Ireland's high level of cultural development, that very urgent issue had yet to be resolved.

30. Mrs. KARP asked how the Government intended to implement the recommendations of the Campaign for Alternative Measures of Education which sought to prohibit corporal punishment in the home.

31. Did children have access to school counselling services and, if so, what provisions were made for those adolescents not in education? Also, did children under 16 have access to counselling services even in the absence of parental consent?

32. Like Mrs. Sardenberg, she would like to know whether the child's view was taken systematically into account in cases of expulsion or other disciplinary procedures. The report indicated only that the opinions of the parents were sought.

33. Ireland appeared to be making great efforts to cater for disabled children and to facilitate their participation in society, but she wondered whether it possessed a national strategy for coordination with non-governmental organizations (NGOs), given their important contribution to the provision of care. What was the Government doing to reduce waiting lists for care services and to facilitate the inclusion of disabled children in regular schools? Did resource allocation depend on the policies of individual Health Boards, or on nationally implemented guidelines?

34. In the field of juvenile justice, the Committee was seeking to determine whether Government policy was rights-based or dependent on financial resources. The issue of increasing the age of criminal responsibility, for example, was clearly related to the provision of adequate funding for care. Although the new Children's Bill had introduced the idea of family mediation in the context of juvenile justice, it appeared to be limited to the allocation of responsibility. Why were more resources not being allocated to prevention measures, which would involve working with the family at an earlier

stage in the context of the care system? Why were the most severe cases involving children being referred to regular courts, when they would be more sensitively dealt with in special courts? Did judges dealing with children's cases receive specialized training in child psychology and behaviour, or were they merely ordinary judges given authority over children?

35. Concerning the definition of sexual offences against children, she would like to know whether male children were equally protected under Irish legislation and whether the problem of male child prostitution was being addressed. Were children protected from prostitution up to the age of 18, or only up to the age of sexual consent? Were the clients of prostitutes criminalized?

36. Mrs. MOKHUANE welcomed the Government's health-promotion initiatives, but was concerned at the resistance to breastfeeding. Had any studies been carried out in Ireland on breastfeeding as a measure of maternal-child bonding?

37. The report did not mention what teenagers themselves thought of health-education initiatives, such as the programmes on teenage pregnancy, alcohol or substance abuse. Had the Government introduced any stop-smoking programmes and what were its policies on addictive behaviour in general? Were there any national programmes, for example, to tackle substance abuse? The current approach to the issue appeared to be fragmented.

38. Regarding HIV-positive children and those with AIDS, what educational facilities were provided? If such children attended regular schools, how were the resulting problems tackled?

39. From the report, the focus of Government policy on mental health seemed to be on residential care rather than on community treatment. In view of the right of the child to remain with its family, fewer children would have to be treated far from home or outside the country if services were located in the community.

40. The current situation regarding primary education in Ireland appeared to be discriminatory. It was a matter of concern that primary education was not State-funded, given that it should be equally accessible to all. If private schools not under the jurisdiction of the Ministry of Education were not systematically supervised, how were the rights of pupils properly protected?

41. Mrs. PALME pointed out that, in 1996, the United Kingdom had made the organization of sexual-tourism trips a major criminal act which carried an eight-year sentence. The Irish Government's written replies indicated that it was an offence to arrange transportation for child-sex tourism or to publish information on the subject, but had failed to elaborate further.

42. Mrs. KARP was concerned that the opinion of a child being considered for admittance to a mental hospital was not taken into account, and that only the parents had a say in the matter. Furthermore, the age at which the person's own opinion was taken into account had recently been raised from 16 to 18 years. The need for sensitivity was all the greater in the case of children, since a record of admittance to a mental institution affect a

child's entire future. Did parents have access to any alternatives, and what was being done to ensure that children were admitted to mental hospitals only as a last resort?

43. The CHAIRPERSON asked whether any research had been carried out on the effect of the hostilities in Northern Ireland on children in the rest of Ireland. Did peace education form part of the school curriculum, particularly in schools close to the border? What provisions were made for counselling children suffering from trauma as a result of the hostilities?

44. On the subject of refugees, she would like to know whether the delay in fully promulgating the Refugee Act, together with the absence of any domestic regime for refugee applications, was causing problems for the children of asylum seekers. Since there was evidence in the report of racism and xenophobia in Irish society, she asked what was being done to address that alarming phenomenon.

45. With regard to sexual exploitation, it would be interesting to hear whether any agency in Ireland focused on the needs of sexually abused children, such as those in prostitution, and whether Gardaí received special training to deal with such matters. Children in prostitution cases often felt harassed by the police, and did not always consider the relevant services to be sufficiently supportive. Given the high degree of recidivism among paedophiliacs, what supervisory and other measures were being implemented by the Government to protect children? The Committee would also appreciate details of the number of cases of sexual abuse in Ireland, and any other research findings available.

46. Ms. O'DONNELL (Ireland) said that a national age card scheme was being prepared to reinforce the existing legislation on under-age drinking, whereby, if a child was in possession of or consumed alcohol, an offence was committed by someone, whether the seller or the purchaser. A National Alcohol Policy, emphasizing moderation in alcohol consumption, had been launched in September 1996, calling upon the various government departments to implement initiatives and also exhorting the non-statutory sector to play its part in ensuring a comprehensive policy.

47. The 1994 health strategy "Shaping a Healthier Future" had recognized the scope for improving the health status of the Travelling Community. There had been a number of initiatives to increase take-up of the full range of health services. Since 1988, the Eastern Health Board had been operating a mobile clinic in the Dublin area and targeting Traveller children for services such as immunization. Health clinics had also been organized on Traveller halting sites. By far the most successful initiative to date, however, had been the same Board's Primary Health Care for Travellers Project under which Traveller women were trained in the promotion of health and the provision of various community-based health services.

48. On anti-discrimination legislation, the two equality bills referred to in paragraph 91 of the initial report (CRC/C/11/Add.12) had recently been referred to the Supreme Court by the President and found to be unconstitutional. Following the Supreme Court decisions, the Government had decided to redraft both bills and resubmit them to the Dáil for enactment.

49. The problem of begging children affected mainly Dublin and the children concerned came from a small number of Traveller families which were well known to the authorities. Under Irish legislation, it was an offence either to beg or to cause a person to beg. In practice, however, enforcement difficulties arose once children had been arrested for begging. When notified, the parents sometimes failed to collect their children or maintained that the children were begging without their knowledge; while the children consistently gave false names or failed to appear in court.

50. The Law Reform Commission had recommended that the offence should be retained but that the presumption should be amended so that the onus would be on the parents to show that they had not sent the child out to beg. The Children Bill, 1996, also proposed changes in the law in that area. New legislation could not provide a complete solution, however, for begging by children was part of a wider social problem and only a minority of the children of Traveller families were involved in begging. An NGO programme had recently been launched to assist the children engaged in begging, under which outreach workers encouraged the children to avail themselves of the services available. NGOs and the Health Boards were working together to try to improve the situation.

51. On the role of women in the home, article 41.2 of the Constitution recognized that, by her life within the home, woman gave to the State a support without which the common good could not be achieved. Some of the concepts set forth in the Constitution - which had been drafted in 1937 - were thought to be out of date but it was also felt that that principle, while in need of modernization, should be retained. The Constitutional Review Group considered it important that there should be constitutional recognition of the significant contribution made to society by the large number of people - not just women - who provided a caring function within their homes for children, elderly relatives and others. It thus favoured the retention of article 41.2 in a revised, gender-neutral form.

52. In response to Mrs. Palme's concerns about refugees, she said that problems had been encountered because of a large number of arrivals in 1996 and 1997, for which the country had been unprepared. All applicants for refugee status were entitled to the same social welfare benefits, health services and education facilities as Irish citizens while their cases were being processed. About 4,000 asylum applications were currently pending.

53. The Refugee Bill had been enacted, but not all its sections had yet been implemented because of a court challenge to the proposal to appoint an independent commissioner to hear appeals. In the light of that delay, the Government had taken administrative measures to accelerate the examination process. The matter was also to be discussed at the NGO forum on human rights to be held in March 1998. There was also a Refugee Care Programme managed by the Irish Refugee Agency, a body funded by the Department of Foreign Affairs.

54. Section 8 (5) of the Refugee Act, 1996, set out procedures to safeguard unaccompanied children who arrived in Ireland, whether or not they were refugees. The relevant Health Board was notified so that assistance could be given under the provisions of the Child Care Act, 1991. Every child who entered Ireland received the same care and services as an Irish child. It was

for the Health Board to decide whether the child ought to apply for refugee status, and to appoint a person to make an application on his or her behalf. That section of the Act was not yet in force, but the Government sought to apply its principles wherever possible.

55. The Minister of State with responsibility for child care had announced, as previously explained, that he considered the establishment of a social services inspectorate to be a higher priority than the introduction of a post of a children's ombudsman, but the principle of an ombudsman had not been ruled out. The inspectorate had not yet been established; it was planned that it would form part of the Department of Health. No problem should arise with regard to its independence, as it was intended that its members would consist of persons of high repute in their profession. The Inspector of Mental Hospitals, who was also based in the Department of Health and issued extremely critical reports from time to time, had served as a model in that regard.

56. Ms. BARRINGTON (Ireland) said that children had excellent access to health services in Ireland. Every resident was entitled to hospital care without charge or at a minimal charge; every woman was entitled to free maternity and infant care; and all children were entitled to free care for infectious diseases and to residential and day-care services for the disabled. In addition, about one third of the population, those with the lowest incomes, were entitled to free general-practitioner and community pharmaceutical services.

57. Waiting lists existed for some highly specialized acute hospital services, such as open-heart surgery and specialized ear, nose and throat treatment. No child needing emergency treatment was ever placed on a waiting list, and, if necessary, arrangements would be made for specialized emergency treatment abroad. The current aim was that no child should have to wait more than six months for any recommended hospital procedure. In 1998, £Ir 12 million was being provided to reduce waiting lists for adults and children - a 50 per cent increase on the 1997 amount.

58. There was a significant shortage of residential and day places for people with intellectual disabilities. Most of those affected were persons who had grown to adulthood and whose elderly parents were no longer able to provide them with support. Some 2,172 additional residential, day or respite places would be needed by 2001. The Minister of Health had recently announced a four-year £Ir 30 million programme to provide those additional places. A similar commitment existed to address the needs of children with physical disabilities.

59. On the rights of fathers, the natural father of a non-marital child could be registered under current statutory registration procedures. Registration of the natural father's name was not compulsory nor, indeed, feasible since the mother might be uncertain of the child's paternity or unwilling to disclose it. Ireland was in compliance with the requirements of article 7 of the Convention regarding registration.

60. Under section 11 (d) of the Children Act, 1997, the court must consider in all cases involving children whether the child's interests would best be

served by maintaining direct contact and personal relations with both parents. The Family Courts traditionally took the view that, in cases of marital breakdown, contact with both parents should be maintained.

61. In 1997, the Minister of Health had published a Plan for Women's Health containing a section devoted to breastfeeding. It had emerged that breastfeeding posed a cultural problem, being viewed as a primitive method of feeding. Advisers had emphasized the importance of encouraging women to consider breastfeeding early on in pregnancy, and of the provision of support by nurses and midwives and had challenged the maternity units' practice of providing artificial milk free of charge. A National Breastfeeding Plan, launched in 1994, provided a framework within which to encourage women to breastfeed babies.

62. Mr. MURRAY (Ireland), responding to questions about sex tourism, said that two private member's bills dealing with the matter had been amalgamated, and the resultant Act had become law a little over a year previously. The penalty provided for organizing sex tourism was up to five years' imprisonment.

63. The debate on the Children Bill had been interrupted by the general election, but advantage had been taken of the delay to improve the bill further. A number of proposed amendments were currently being finalized, and the debate was due to resume shortly. For example, it seemed likely that the family conference procedure would be included.

64. The purpose of the Diversion Programme, referred to in paragraph 548 of the report, was to ensure that most children coming into conflict with the law were not criminalized. It consisted of formal and informal cautions and supervision by a trained Juvenile Liaison Officer.

65. The current situation was that the President of the District Court appointed district-court judges to sit on the Children's Court. In future, under the Children Bill, the President of the Court would designate specific judges to deal with children's issues in the Dublin area, and peripatetic judges for the provinces.

66. A new Child Trafficking and Child Pornography Bill had recently been published and should become law in the near future. It specified penalties of life imprisonment for trafficking in children across international borders for purposes of sexual exploitation and of up to 10 years' imprisonment for lesser offences, including the dissemination of child pornography on the Internet. A working group was looking into ways of dealing with the problem of harmful material entering the country via the Internet.

67. Irish legislation did not distinguish between children and adults soliciting publicly for prostitution purposes. The offence could be committed by the prostitute, the client or a third party, and the penalty imposed was not very severe. However, a person soliciting a child would be liable to the far more severe penalties provided under the legislation relating to children. The decision had recently been taken to open a paedophile register. That issue would be included in a forthcoming discussion paper, as would the question of post-release supervision of convicted paedophiles.

68. Mr. KILROY (Ireland) said that the Education Bill had been the product of a long consultation process. Under the Bill, formal guidelines for suspensions would be put in place. The Bill also contained an arrangement for hearing appeals against suspensions and expulsions in an informal setting.

69. The suggestion that Traveller children were segregated was long outdated. The current practice was to allocate resource teachers to provide support in a fully integrated setting, but to allow for their withdrawal if special intensive tuition was required.

70. The issues relating to pre-school education would be addressed at the forum on early childhood education, provisionally scheduled for April 1998. There were more than 100 primary schools in rural areas that had only between 20 and 40 pupils. Provision existed for additional staffing where multi-class situations arose. The Home/School Community Liaison Scheme and the disadvantaged area funds would continue to be developed as central planks of attempts to address educational disadvantage. As to the situation in Killarney, where two teachers had refused to participate in the delivery of the Relationships and Sexuality Programme, he was unable to comment for fear of prejudicing the outcome of the ongoing consultations.

71. There were 567 guidance counsellors in the second-level education system. The Department of Education provided funding to facilitate physical access by disabled pupils, and the allocation for special equipment for the disabled had been increased by 50 per cent in 1997, enabling all applications for such equipment to be met.

72. Relatively few pupils received private primary education; delivery of the service was, however, subject to supervision by the Department's Inspectorate. The Department also extended special needs services to children in the private education system.

73. Ms. O'DONNELL (Ireland) said she had noted the suggestion that a specific programme on the Convention should be included in the celebrations marking the fiftieth anniversary of the Universal Declaration of Human Rights.

74. The question had been asked whether any studies had been carried out on the impact of the conflict in Northern Ireland on the children in border areas. She had requested information in that regard from the Anglo-Irish Section of her Department, but was able to affirm that a great deal of research had been done in Northern Ireland on the impact of the violence on victims and their relatives, and that the rights of victims were a major concern in the current process of brokering a settlement.

75. The Eastern Health Board had approved concrete measures to implement the main recommendations of the report of its Working Group on Child Prostitution, which concerned the provision of a sufficient number of quality placements that children could readily access and of specific services that were accessible and flexible. The law made no distinction of gender in relation to the criminalization of prostitution.

76. Ms. BARRINGTON (Ireland) said that children under the age of 16 could receive counselling without parental involvement from many sources, including

school counsellors and doctors. More should, perhaps, be done to alert them to the existence of those sources. Doctors were sometimes placed in a difficult situation since they were liable to be sued, on the one hand, for treating a child against the parents' wishes and, on the other, for disclosing confidential medical information. A countrywide network of family-planning clinics provided information and counselling to children regarding contraception and other sexual matters and condoms were freely available. The Irish Society for the Prevention of Cruelty to Children (ISPCC) operated a child-help line which provided children with information or directed them to the appropriate sources.

77. Mrs. SARDENBERG stressed the importance of training the professionals who provided counselling in the rights of the child. She also suggested that the Convention should be published in a format that would appeal to and be easily understood by children.

78. Ms. BARRINGTON said that a very small number of children in Ireland had contracted AIDS. They were primarily the children of drug abusers and received particularly intensive support. No distinction was made in terms of the schools and health-care centres they attended.

79. The CHAIRPERSON invited the members of the Committee to make preliminary concluding observations on the initial report of Ireland.

80. Mrs. SARDENBERG said she had the impression that, despite significant progress in many areas, there was a lack of real commitment by the Irish Government to the rights-based approach to the implementation of the Convention. There was a tendency to think solely in terms of emergencies and intervention and to ignore the fact that problems such as sexual exploitation and poverty were also a violation of children's rights. Children should be placed at the centre of the Government's plans for development instead of remaining invisible within the family. A more integrated approach to the institutional situation would ensure greater coherence of policy and action and speedier implementation of the recommendations of the Constitutional Review Group.

81. It was important to adopt a rights approach in any review of the educational process and to focus on the general principles of non-discrimination, participation and the best interests of the child. The problem of funding for the children's rights publicity campaign had not been fully solved, and she recommended that the authorities should establish machinery to formalize the dialogue with NGOs.

82. Mr. FULCI said that Ireland was to be commended on its pioneering legislation on the sexual exploitation of children. He had been somewhat shocked, however, to hear that the penalty for some offences was life imprisonment.

83. The authorities should reconsider the current constitutional situation with regard to the incorporation of international treaties in domestic legislation. The existing procedure seemed to be time-consuming and to require a great deal of new legislation and coordination.

84. Mrs. MOKHUANE, having expressed appreciation of the delegation's constructive and non-defensive approach to its dialogue with the Committee, said that she endorsed the remarks made concerning the need for a rights-based approach to the implementation of the Convention, a greater publicity effort, more consultation of the children themselves, and training facilities for professionals and others with responsibility for children. The potential of the NGO community was not fully realized and it should be more fully involved in the development and implementation of the national strategy for children.

85. She recommended that more emphasis be placed on the best interests of the child in the appropriation of resources, the formulation of policy and the enactment of legislation. All constitutional obstacles that impeded implementation of the Convention should be removed. More government funding was needed to provide children of lower socio-economic status with access to arts and music facilities and priority should be given to a programme for the eradication of child poverty.

86. There had been insufficient information reported on recreational facilities, playgrounds, access to holiday programmes, etc. The child's right to play should be facilitated by the formulation of a national strategy in that area.

87. More recent disaggregated data was needed on issues such as child abuse, social security, AIDS, adoption and substance abuse.

88. Mrs. KARP said that full implementation of the Convention in Ireland required a change from a patronizing to a rights-oriented attitude and a better understanding of the holistic nature of the Convention and of the indivisibility and interdependence of children's rights so that issues were no longer compartmentalized. The best interests of the child should be a key principle, for example in regard to the age of criminal responsibility and the mandatory reporting of child abuse. The authorities should respond more urgently to the recommendations of reports and research and there should be greater emphasis on monitoring, coordination and evaluation. Legislation governing adolescent health should ensure that doctors did not risk prosecution for giving medical advice and a campaign for alternative measures to corporal punishment should be launched.

89. Victims of sexual exploitation and prostitution should not be viewed as offenders or stigmatized even when they solicited custom. Provision should be made for their rehabilitation.

90. Mrs. PALME said that the frenetic activity of recent years in Ireland would, no doubt, be replaced in due course by a more constructive and goal-oriented child policy. If breastfeeding was a cultural problem, it would be very easy and inexpensive to change attitudes within a few years. Other cultural problems would be more difficult to address, particularly attitudes to corporal punishment. Spanking was rarely based on rational considerations but was usually resorted to when people were under stress. In particular, there seemed to be a relationship between unemployment-related stress and corporal punishment and other forms of violence in the family.

91. With regard to the argument that raising the age of criminal responsibility to 12 years would prove too costly, she found it hard to believe that it was more expensive to deal with children's problems in a social rather than a criminal context.

92. Ms. O'DONNELL (Ireland) said that the Committee's comments and recommendations would be very useful in her Government's continuing efforts to implement the Convention. In response to recent revelations of the extent of child abuse and neglect, the authorities had, as a matter of urgency, adopted a welfare-based approach because the general public had demanded that machinery to implement the Child Care Act be put in place as swiftly as possible. Many services had thus been developed on an issue-by-issue basis. She had taken careful note of the Committee's recommendations regarding the need to adopt a more holistic and rights-based approach.

93. The Government had not rejected the principle of an ombudsman for children. It was first committed, however, to the establishment of the social services inspectorate. It was also committed to extending the remit of the Minister of State at the Department of Health and Children to include child care functions in the Department of Education and Science and the Department of Justice, Equality and Law Reform. The issue of the overall coordination of policies affecting children would be given careful attention in the next phase of implementation of the Convention.

94. While the situation with regard to child poverty was not as bleak as some questions by the Committee appeared to suggest, she agreed that action must be taken in a period of economic prosperity to ensure that marginalized sectors were not neglected. The Anti-Poverty Strategy placed the needs of the poor and socially excluded at the top of the agenda and addressed related problems of educational disadvantage.

95. She had taken note of the Committee's concern regarding chastisement and would report it to the relevant authorities.

96. The Children Act, 1997, the Education Bill, 1997, and the Child Care Act, 1991, contained specific measures to ensure that the views of children were taken into account and she assured the Committee that provision for consultation would be included in future legislative and other developments.

97. The age of criminal responsibility would be increased to 10 years as soon as the Children's Bill was enacted and a further increase to 12 years would be effected as soon as possible. Children over the age of criminal responsibility who came into conflict with the law were not automatically criminalized. In many cases no action was taken and the majority were admitted to the Diversion Programme. Those convicted in the courts were referred to young offender schools, which did not impose a punitive regime but sought to rehabilitate children and reintegrate them into society.

98. The court system was the only means whereby children could be removed from their parents or guardian.

99. The national publicity campaign on the Convention which was being organized by the Children's Rights Alliance would contribute significantly to the dissemination of knowledge concerning the Convention.

100. The Irish Constitution was an organic legal document which had been a powerful basis for the identification and assertion of fundamental rights and of previously unrecognized rights. The interpretation of the fundamental rights provisions, both specified and unspecified, reflected recent changes in social attitudes and concepts of justice. Apart from the unenumerated personal rights of the child constitutionally protected by article 40.3.1, children shared the general constitutional rights with adults. Ireland had ratified the Convention in September 1992 on the basis of its compatibility with the Constitution, and the recommendation by the Constitutional Review Group that individual children's rights should be specified was merely a precautionary measure. Ultimately, all the principles set forth in the Convention would be fully enshrined in domestic law.

101. She intended to propose that a debate should be held in Dáil Éireann on the next stage of implementation of the Convention. There would be rapid follow-up action by government Departments on the Committee's recommendations, and NGOs would be fully consulted and involved.

102. Ireland had undergone unprecedented economic and social changes in the previous decade and there had been a fundamental questioning of every aspect of society. Openness, transparency and accountability were demanded of all institutions and persons in authority. People were more concerned about the exercise of their rights and less tolerant of policies that depended on discretion and charity. Children were clearly benefiting from the change. They were not afraid to question and express their views and were very far from being invisible.

103. The CHAIRPERSON thanked the delegation and informed it that the Committee would formulate its concluding observations on Ireland's initial report later in the session.

The meeting rose at 1.25 p.m.